

Nature of Admin Law

- ✓ 1) common good > common law rights of ~~individual~~ personal freedom / Pvt. property
- ✓ 2) flexible standards
- ✓ 3) ↑ technical matters → Adm. Tribunals having experts
- ✓ 4) discretion to public authorities inevitable
- ✓ 5) experimental & dynamic condition.

AL in India

- (i) Art 226 : govt. & its agencies subject to jurisdiction of superior courts.
- (ii) Art 300 : suability of the state
- (iii) Art 13(3) : subordinate legislation
- (iv) Art 136 & 227 : admn. tribunals
- (v) Law Commⁿ Report, 1955 : need for ↑ judicial control on admn.
- (vi) ARC-1 : Lokpal & Lokayukta (like Scandinavian Ombudsman)
- (vii) Art 323 A, B
- (viii) 1985 - CAT
- (x) Droit Administratif isn't feasible in India since it is in conflict with system of Judicial Review which is a basic feature of our Constitution.
- (x) Another option is the Ombudsman which can be adopted here.

Reasons for AL growth

- ✓ (i) ↑ socio economic functions of state
- ✓ (ii) Industrialization
- ✓ (iii) ↑ S&T
- ✓ (iv) to control administrative discretion & arbitrariness
↳ as mentioned by Law Commⁿ in its 14th report

Administrative Tribunals

- ✓ administrative bodies set up solely with the idea of discharging quasi-judicial duties
- ✓ observe principles of natural justice or fair hearing
- ✓ controversies may arise in the course of implementation of substantive provisions of an enactment → ATs created
- ✓ Jurisdiction not general but specific, unlike courts.
- ✓ neither court nor executive body : stands midway
↳ offspring of compromise b/w executive & judiciary
- Major Characteristics of ATs
 - ✓ (i) established by executive as per statutory provisions.
 - ✓ (ii) quasi judicial functions
 - ✓ (iii) proceedings deemed to be judicial ~~and~~ proceedings & in certain procedural matters it has powers of a civil court.
 - ✓ (iv) Independent body, acts w/o bias
 - ✓ (v) follows principles of natural justice
 - ✓ (vi) Doesn't follow technicalities of rules of procedure & evidence prescribed by the civil procedure code and evidence act.
 - ✓ (vii) It is not a court in proper sense of the term.

Reasons for growth of ATs

- ✓ (i) cheaper justice
- ✓ (ii) speedier justice
- ✓ (iii) manned by experts
- ✓ (iv) Flexibility : can revise own decisions; Doctrine of 'res judicata' doesn't apply
- ✓ (v) Relief to courts
- ✓ (vi) Experimentation : esp. in developing countries with new socio-economic programmes.

Demerits of ATs

- haphazard growth : no uniform pattern of composition procedure or review.
 - no provision of appeal against tribunal's decision.
 - Persons not legal experts
 - no provision for evidence of oath, or power cross-examⁿ
→ getting truth difficult.
 - lack of publicity, secrecy → autocratic bureaucracy
 - poor quality of investigation
- } Prof. Robson.

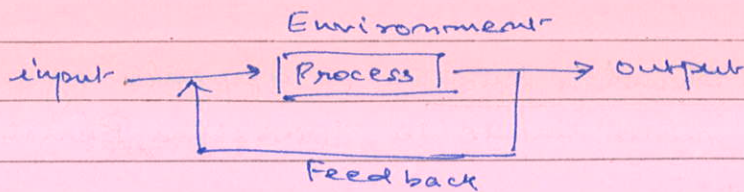
India

- SC decision, 1997 : L. Chandra Kumar : appeals against orders of an AT are now made to Division Bench of concerned High Court.
- nominal fee of ₹ 50/- for filing application in AT
- CAT : Chairman - 1, VCs : 16, Members : 49
17 regular benches, 15 at principal seats of HCs
2 at Jaipur & Lucknow
CJI initiates appointment of Chairman on reference of CG.
- VCs & members : Selection Committee headed by CJI's nominee (a sitting SC judge)
- Appointments : App. Committee with CJI's concurrence.
- MOPPGP gives admin support to CAT
- States like MP, TN & HP have abolished SATs since they became unwieldy & expensive after SC's 1997 decision (2 tier to 3 tier process) : SATs had become "white elephants" for the states.

ORGANISATIONS

Systems Theory — 1950s

- ✓ Org as an adaptive system
- ✓ Org & its environment interdependent for resources
- ✓ earlier theories concentrated on internal formal structure & technology.
- ✓ HR movt. restricted its perspective to socio-psych variables
- ✓ Systems Theory avoids these weaknesses
- ✓ Effort to look at organisation in its totality
- ✓ March, Simon, Haire
- ✓ Norbert Wiener: cybernetic system



Characteristics (Nigro & Nigro)

1. Org as open system: resources (input) $\xrightarrow{\text{throughput}}$ products & services (output)
2. Org $\rightarrow$ output $\rightarrow$ environ $\rightarrow$ input for other orgs
3. Org structure develops around predictable input $\xrightarrow{\text{throughput}}$ output activity
4. Search for resources + adaptiveness $\Rightarrow$ $\uparrow$ structural differentiation & task specialisation (over time)
5. Feedback in form of environmental response used to keep system on course w.r.t. goals & to evaluate performance of org & its sub units.
6. Orgs. as systems seek equilibrium through adaptation

Main Subsystems of Org System:

1. Technical core
2. Supportive — e.g. raw material procurement, Research, PR
3. Maintenance — e.g. Personnel functions
4. Adaptive — e.g. Planning, R&D
5. Managerial — coordinate other subsystems

Contingency Theory

- ✓ no one best way (classical / HR)
- ✓ no "optimum state", each org is diff, apt structure and system of management is dependent on contingencies of the situation
- ✓ Situations dictate managerial action

Important points:

- ✓ Managerial actions are contingent upon certain actions outside the system or sub system.
- ✓ Efforts of org should be based on actions outside the system to integrate it with environ
- ✓ Apt mgmt action depends on situation
- ✓ rejects universality of principles

————— x ————— x ————— x —————

✓ Graicunas' formulae for span of control.

Direct single relationships = n

Direct group relationships = $n(2^{n-1} - 1)$

Cross relationships = $n(n-1)$

∴ TOTAL Relationships = $n \left(\frac{2^n}{2} + (n-1) \right)$

$$= \boxed{n(2^{n-1} + n - 1)}$$

→ James D. Mooney calls coordination the first principle of organisation.

→ Coordination v/s cooperation: coordination is achieved through deliberate effort of the executive. Cooperation implies voluntary efforts by group members. Cooperation can facilitate coordination but doesn't imply coordination. Coord without coop & coop without coord are detrimental.

- Follett: Coordination implies harmonious ordering of parts.

↳ Principles of Coordination:

- ✓ (i) Direct Contact
- ✓ (ii) Early Stages
- ✓ (iii) Continuity
- ✓ (iv) Reciprocal relationship
↳ men, material & environment are reciprocally related

Line and Staff

- ✓ Line authorities: Substantive functions of the govt.
- ✓ Staff serves the line, line serves the people

Line Org

- ✓ primary function of org
- ✓ authority flows vertically downwards from top to bottom
- ✓ Authority highest at top
- ✓ Every person in org. in direct chain of command
- ✓ Unity of command
- ✓ Takes decisions & issues commands
- ✓ Direct operative authority

Staff Org

- ✓ Secondary fns.
- ✓ no authority & command, can't give orders
- ✓ advisory
- ✓ anonymous, in background
- ✓ no executive responsibilities
- ✓ no direct dealing with people
- ✓ attached to line units at all levels, outside line of command
- ✓ provide services
- ✓ research, consultative, advisory

Types of Line Orgs: Dept, Public Corporation, Boards & Commissions

Types of Staff agencies: General, Technical, Auxiliary